STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DEVON CHANCE KIDDON, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID EDWARD KIDDON,

Respondent-Appellant,

and

LISA GAINES,

Respondent.

UNPUBLISHED
July 21, 2000

No. 221410
Wayne Circuit Court
Family Division
LC No. 81-227043

Before: White, P.J., and Doctoroff and O'Connell, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from a family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j). We affirm.

We initially note that termination under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) was improper because respondent had nothing to do with the conditions that led to the original proceedings. The original proceedings involved the mother's use of drugs during her pregnancy and the fact that the child tested positive for heroin at birth. Nevertheless, MCL 712A.19b(3)(g) and (j); MSA 27.3178(598.19b)(3)(g) and (j) did apply.

The testimony adduced at trial established that respondent did not comply with the FIA's requests to sign the parent/agency agreement, which would have required him to take parenting classes and obtain a drug assessment and other services. Nor did respondent have a stable home. Respondent lived with his mother, who filed domestic violence charges against him in 1998. Further, respondent had an extensive criminal history and did not have stable employment. He worked only six to seven hours a week, earning $6.00 per hour. Therefore, the court did not clearly err in finding no reasonable expectation that respondent would be able to provide proper care or custody for the child.

The FIA urges this Court to conclude that respondent never established any parental rights in the first place and therefore had no rights to terminate. According to the FIA, respondent never overcame the presumption that the mother's husband was the child's legal father and that consequently we should vacate the lower court's order. The FIA did not file a cross-appeal in this case. Although a cross-appeal is not necessary to urge an alternative ground to affirm, it is necessary when the appellee seeks to reverse or modify the trial court on grounds different from those raised by the appellant. See *Kosmyna v Botsford Community Hosp*, 238 Mich App 694, 696; 607 NW2d 134 (1999); *Consumers Power Co v Flint*, 195 Mich App 295, 300-301; 489 NW2d 201 (1992). We therefore do not address this issue.

Affirmed.

/s/ Helene N. White
/s/ Martin M. Doctoroff
/s/ Peter D. O'Connell